

Thrasher, Sandra Jo

From: Knueven, Paul
Sent: Tuesday, May 13, 2003 6:20 AM
To: Thrasher, Sandra Jo
Subject: FW: Comments regarding workshops to discuss changes to existing regulations

-----Original Message-----

From: Karen Anderson [mailto:kanderso@southern-ute.nsn.us]
Sent: Monday, May 12, 2003 4:52 PM
To: Knueven, Paul
Cc: "Bruner, Jerry"; 'Tom Shipps'
Subject: Comments regarding workshops to discuss changes to existing regulations

Dear Mr. Knueven:

Please accept this communication as our comments submitted to the Minerals Management Service regarding the contemplated changes to the federal and Indian valuation regulations. I attended the Workshop held in Albuquerque on April 24, 2003 and I wish to submit further comments subsequent to that Workshop.

The points I wish to address are as follows:

The Negotiated Indian Gas Valuation Rule Effective January 2000

The first meeting of the Indian Gas Valuation Study Group occurred on January 6, 1994. This group of MMS and representatives of Indian lessors met to discuss ways in which the MMS could resolve some thorny issues associated with the 1988 regulations. This group met at various times until the Indian Gas Valuation Negotiated Rulemaking Committee ("Committee") was formed in January 1995. The Committee wrestled with these valuation issues until it held its final vote in March 1996. The MMS published a proposed rule in September 1996, but did not publish the final rule until August 1999. The new rule became effective on January 1, 2000. During a six-year period, representatives of Indian lessors, industry, the MMS and the BIA worked very hard to establish a rule that would result in an end to valuation uncertainty, litigation and under-valuation related to Indian royalty. The new rule has had two years to prove itself and I have concluded that it operates as the Committee intended. We sincerely hope that the MMS does not intend to unravel the good work of those six years.

Index Zone Valuation

The Southern Ute Indian Tribe's oil and gas leases are located in the San Juan Basin. The San Juan Basin is recognized under the new rule as an index zone. The valuation formula that lessees use to value the Tribe's royalty is simple, is known at the time of production and is beneficial to the Tribe. The rule provides safeguards against under-valuation, such as the safety-net calculations and the opportunity for Indian lessors to "opt-out" of the formula. The audit programs of the MMS and several Tribes have conducted safety net audits and have found only rare, anomalous situations in which the safety net calculations resulted in any additional royalty due over the formula valuation method (and those amounts were not very significant). The rule works just fine.

Non-Index Zone Valuation

During the Workshop, the MMS presenters indicated that certain contemplated changes in the federal valuation rule may impact the Indian Gas Valuation Rule in non-index zone areas. We encourage the MMS to consider very carefully its trust responsibility to Indians as it proceeds through this process. Although the Southern Ute Indian Tribe is not subject at this time to the non-index zone valuation

methodology, any unfavorable changes would impact other Tribes and individual Indians, as well as having the potential to negatively impact the Southern Ute Indian Tribe at some point in the future.

Thank you for accepting these comments.

Regards,

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